

# CONSULTANCY AGREEMENT

between

**CV INFRASTRUCTURE SERVICES PTY LTD (THE CLIENT)**

and

**[insert legal entity name] (CONSULTANT)**



**Details – Consultant Agreement**



**Date:**

**Project:**

**Site:**

**Purchase Order Number:**

- Item 1** CV CV Infrastructure Services Pty Ltd  
 ACN (: 135 850 985  
 Address: 148 Hedley Avenue, Hendra QLD 4011  
 Phone: (07) 3622 4333  
 Attention:  
 Email:
- Item 2** Consultant [insert legal entity name]  
 ACN (if applicable): [insert ACN #]  
 Address: [insert address]  
 Phone: [insert phone]  
 Attention:  
 Email:
- Item 3** Public liability insurance \$20,000,000
- Item 4** Professional indemnity insurance  
 (a) \$10,000,000 per annum  
 (b) 7 years after the Consultant completes carrying out the Services
- Item 5** (a) Time for submitting monthly payment claims  
 The 28th day of each month for work done up to the 28th day of that month provided that a payment claim can only be made up to the month in which the Consultant completes carrying out the Services unless the Consultant’s completion of the Services occurs after the 28th day of the month in which case a payment claim can be made on the 28th day of the month following the date the Consultant completes carrying out the Services

(b) Last date for claiming payment after the date of termination  
 The 30th day of the month in which termination occurs, unless termination occurs after the 30th day of a month, in which case the date shall be the 30th day of the following month
- Item 6** Time for payment  
 Where a payment claim is made under the Security of Payment Act, within 15 Business Days of CV receiving the payment claim;  
 or  
 Otherwise, on the later of:  
 (a) the 30th day of the month after the month in which the payment claim is made; and

Initial	
Initial	

(b) 30 days from receipt by CV of a valid tax invoice from the Consultant for the amount assessed

- Item 7** Expenses and disbursements to be borne by CV Refer Annexure 1
- Item 8** Fee Refer Annexure 1
- Item 9** Special Conditions Not used

**EXECUTED AS AN AGREEMENT**

**EXECUTED** by **CV Infrastructure Services Pty** )  
**Ltd** (ABN 87 135 850 985) in accordance with )  
 section 127 of the Corporations Act 2001 (Cth) )  
 by: )

.....  
 Signature of Authorised Representative

.....  
 .....  
 Address of Witness

**EXECUTED AS AN AGREEMENT**

Initial	
Initial	

**EXECUTED** by [insert legal entity name] (ABN - )  
 -----) in accordance with section 127 of )  
 the Corporations Act 2001 (Cth) by: )

.....  
 Signature of Director

.....  
 Signature of Director/Secretary

.....  
 Name of Director

.....  
 Name of Director/Secretary

Initial	
Initial	

**INTRODUCTION:**

**A** CV appoints the Consultant to perform the Services on the terms set out in this Agreement.



**IT IS AGREED:**

**1 Definitions and interpretation**

**1.1 Definitions**

In this Agreement, unless the context clearly indicates otherwise:

**Agreement** means this agreement including the Details, the Contract Documents, any special conditions, any annexures, any schedules and other attachments to it;

**Approval** means any certificate, licence, consent, permit, approval or requirement required by:

- (a) any Legislative Requirement arising out of or in any way connected with the Services; or
- (b) any:
  - (i) organisation; or
  - (ii) Authority,

having jurisdiction in connection with the carrying out of the Services;

**Australian Standards** means any standard published by Standards Australia Limited;

**Authority** means any:

- (a) government;
- (b) public, local or statutory authority (including, where applicable, any relevant certifying authority); or
- (c) utility or telecommunications provider,

having jurisdiction in respect of the Services or the Project;

**Brief** means CV's brief in relation to the Services, stated in the documents listed in Annexure 3;

**Building Code** means the National Construction Code published by the Australian Building Codes Board, as in force on the date of this Agreement;

**Business Day** means any day which is a business day under the Security of Payment Act;

**Confidential Information** means the terms of this Agreement and all information, material and technology disclosed or provided in any form in connection with the subject matter of this Agreement or in any way related to this Agreement;

**Consultant** has the meaning in Item 2;

**Contingent Insolvency Event** means, in relation to a body corporate:

- (a) an administrator of the body corporate is appointed under the Corporations Act;
- (b) a person is appointed to administer an arrangement or compromise under the Corporations Act; or

Initial	
Initial	

- (c) a managing controller of the body corporate is appointed under the Corporations Act to the whole or substantially the whole of the body corporate's property;

**Contingent Insolvency Event Authorisation** means, in relation to a body corporate:

- (a) the administrator of the body corporate appointed under the Corporations Act, the person appointed to administer an arrangement or compromise under the Corporations Act or the managing controller of the body corporate appointed under the Corporations Act to the whole or substantially the whole of the body corporate's property provides his or her consent in writing to CV allowing CV to enforce a right under this Agreement; or
- (b) there is a court order giving leave to CV to enforce a right under this Agreement;

**Contract Documents** means the documents listed in Annexure 2;

**Contract Material** means those Documents, designs, materials, methods of work, specifications, manuals, reports, drawings and other information and materials, samples, models, patterns and the like created or required to be created under this Agreement;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**Details** means the part of this Agreement entitled "Details – Consultant Agreement";

**Documents** includes information stored by electronic or other means;

**Enforceable Insolvency Event** means:

- (a) in relation to a body corporate:
  - (i) other than for the purpose of an amalgamation or reconstruction, the body corporate or a Related Body Corporate or Related Entity of the body corporate executing a deed of company arrangement;
  - (ii) a managing controller of the body corporate is appointed under the Corporations Act to any property of the body corporate but not to the whole or substantially the whole of the body corporate's property;
  - (iii) the body corporate being insolvent within the meaning of section 95A(2) of the Corporations Act;
  - (iv) other than for the purpose of an amalgamation or reconstruction, the making of a winding up order, or the passing of, or attempted passing of, a resolution for winding up;
  - (v) other than for the purpose of an amalgamation or reconstruction, an application being made (which is not dismissed within 10 Business Days) for an order, a resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above;
  - (vi) only for the purposes of subclause 11.7(a)(i) in relation to exercise of the right under subclause 11.3, a Contingent Insolvency Event; or
  - (vii) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction; and
- (b) in relation to a person other than a body corporate:
  - (i) the bankruptcy of the person concerned;

Initial	
Initial	

- (ii) the appointment of an official manager in respect of all or any part of the property of the person concerned;
- (iii) the entry by the person concerned into a scheme of arrangement or a composition with, or assignment for the benefit of, all or any class of its creditors, or a moratorium involving any of them;
- (iv) the person concerned being or stating that he or she is unable to pay his or her debts when they fall due;
- (v) an application being made (which is not dismissed within 10 Business Days) for an order, a resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above; or
- (vi) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction;

**Error** includes any inconsistency, ambiguity, omission, inaccuracy, incorrectness, miscalculation or mistake in the Contract Material;

**Fee** means the amount specified in Item 8;

**GST Legislation** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Intellectual Property Right** means any patent, registered design, trademark or name, copyright or other protected right;

**Item** means a numbered item in the Details;

**Legislative Requirements** includes:

- (a) Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and Queensland;
- (b) certificates, licences, consent, permits, approvals, requirements and codes of:
  - (i) any organisation; or
  - (ii) any Authority
 having jurisdiction in connection with the carrying out of the Services;
- (c) Australian Standards;
- (d) the Building Code; and
- (e) fees and charges payable in connection with the foregoing;

**Material Default:**

- (a) if the defaulting party is the Consultant, includes:
  - (i) failing to provide evidence of insurance;
  - (ii) failing to achieve any standard required by this Agreement for the Services;
  - (iii) failing to comply with any Legislative Requirement;
  - (iv) knowingly providing a statutory declaration or report containing an untrue statement;
  - (v) wrongfully suspending the Services; or

Initial	
Initial	

- (vi) substantially departing from a Program without reasonable cause or CV's approval or failing to proceed with due expedition or without delay; or
- (b) if the defaulting party is CV, includes failing to make a payment that is due and payable under this Agreement;

**Modern Slavery** has the meaning given to the term modern slavery in the *Modern Slavery Act 2018* (Cth);

**Modern Slavery Laws** means the *Modern Slavery Act 2018* (Cth);

**Moral Rights** means moral rights as provided for under Part IX of the *Copyright Act 1968* (Cth);

**Notice** has the meaning in clause 20.8(a);

**Owner** means the registered proprietor of the Site;

**Personal Information** has the meaning given to that term in the Privacy Act;

**Personnel** of a party means the officers, employees, contractors, consultants, suppliers, workers and agents of that party and its related companies and:

- (a) in the case of the Consultant, includes any subconsultant and the officers, employees, contractors, consultants, suppliers, workers and agents of the subconsultant; and
- (b) in the case of CV, does not include the Consultant;

**Privacy Act** means the *Privacy Act 1988* (Cth);

**Program** means a written program for the carrying out of the Services as amended from time to time, including, if applicable, the initial program at Annexure 4;

**Project** has the meaning in the Details;

**Project Documents** means all Contract Materials, any as-built drawings, any operation and maintenance manuals (including software codes) and any similar documents prepared by or on behalf of the Consultant in relation to the Project;

**Purchase Order Number** means the number allocated by CV in relation to the Services;

**Related Body Corporate** has the meaning given to that term in the Corporations Act;

**Related Entity** has the meaning given to that term in the Corporations Act;

**Security of Payment Act** means the *Building Industry Fairness (Security of Payment) Act 2017 (QLD)*;

**Services** means the services described in the Brief together with those other activities which the Consultant is required to carry out under this Agreement and includes all incidental services which are to be reasonably inferred from the Brief or the requirements of this Agreement;

**Site** has the meaning in the Details;

**Variation** means any one or more of the following:

- (a) an increase, decrease or omission of any part of the Services;
- (b) a change in the character or quality of the Services; or
- (c) any additional services;

**WHS** means work health and safety;

Initial	
Initial	



**WHS Act** means the *Work Health and Safety Act 2011* (QLD);

**WHS Laws** means:

- (a) those Acts, regulations, by-laws, orders, awards, proclamations, standards and codes of the Commonwealth or Queensland relating to WHS (including the WHS Act and WHS Regulation) with respect to the Services;
- (b) the requirements of any Authority relating to WHS with respect to the Services; and
- (c) any directions on safety or notices issued by any relevant Authority or any code of practice or compliance code relating to WHS and appropriate or relevant to the Services; and

**WHS Regulation** means the *Work Health and Safety Regulation 2011* (QLD).

## 1.2 Interpretation

- (a) In this Agreement unless the context clearly indicates otherwise:
  - (i) the terms set out in the Details have the meaning given to them in the Details;
  - (ii) clause headings are inserted for convenience only and do not form part of this Agreement;
  - (iii) a reference to legislation, a legislative provision or a Legislative Requirement includes:
    - (A) any modification or substitution of that legislation, legislative provision or Legislative Requirement; and
    - (B) any subordinate legislation issued under that legislation, legislative provision or Legislative Requirement as modified or substituted;
  - (iv) the introduction, annexures and schedules form part of this Agreement;
  - (v) a reference to a person includes that person's successors, permitted assignees and novatees;
  - (vi) an obligation or warranty on the part of two or more persons binds them jointly and severally and an obligation or warranty in favour of two or more persons benefits them jointly and severally;
  - (vii) a reference to a breach of warranty includes that warranty not being complete, true or accurate;
  - (viii) including and includes are not words of limitation;
  - (ix) a reference to a time is to that time in Queensland;
  - (x) a word that is derived from a defined word has a corresponding meaning;
  - (xi) monetary amounts are expressed in Australian dollars;
  - (xii) the singular includes the plural and vice-versa;
  - (xiii) words importing one gender include all other genders;
  - (xiv) a reference to a thing includes each part of that thing;
  - (xv) if:
    - (A) the time for doing any act or thing required to be done; or
    - (B) a notice period specified in this Agreement,
 expires on a day which is not a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day; and

Initial	
Initial	

(xvi) if any act or thing required to be done is done after 5.00pm on the specified day, it is taken to have been done on the following Business Day.

(b) Neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

## 2 Consultant obligations

### 2.1 Performance

- (a) The Consultant agrees that it will perform the Services:
- (i) properly and diligently with the degree of skill, care and competence expected of a consultant experienced in the performance of the Services;
  - (ii) with due expedition and without delay and in accordance with any Program;
  - (iii) in accordance with this Agreement, any direction of CV, all Legislative Requirements and the Rules; and
  - (iv) in a manner that is coordinated and integrated with services to be performed by other consultants and contractors engaged by CV in connection with the Project.
- (b) The Consultant agrees any Contract Material will:
- (i) be fit for the purpose stated in or reasonably inferred from the Contract Documents including any use, operation or maintenance requirements associated with or arising out of the relevant item, materials, equipment or works specified, manufactured or constructed arising out of or in connection with the Contract Material; and
  - (ii) be prepared so that any item, materials, equipment or works specified, manufactured, constructed or arising out of or in connection with the Contract Material can be used without risk or harm to the health or safety of people; and
  - (iii) comply with all Legislative Requirements and this Agreement.
- (c) The Consultant must promptly give CV notice if it discovers any inconsistency, ambiguity or discrepancy in or between the rights and obligations of CV or the Consultant under this Agreement. (“**Discrepancy**”). The Consultant must at its cost comply with any CV direction regarding a Discrepancy.
- (d) At any time that CV requests, the Consultant must provide CV a report relating to the Services and the products of the Services (including the Contract Material) in a form reasonably directed by CV at the relevant time.
- (e) Unless advised otherwise in writing by CV, the Consultant acknowledges that included in its obligations under this Agreement is the obligation to comply, at its cost, with all Legislative Requirements and all conditions of any Approval. The cost of complying with any Approval condition and any changes in Legislative Requirements is included in the Fee.
- (f) The Consultant acknowledges that CV relies on the Consultant’s skill, experience and ability in respect of the Services, and that CV has entered into this Agreement relying on the Consultant’s assurances under this Agreement.
- (g) If no Program is at Annexure 4, the Consultant must give CV a Program within the time and in the form directed prior to commencing the Services and at such other times as may be directed by CV. The Consultant must not, without reasonable cause, depart from the Program.

Initial	
Initial	

- (h) CV may direct in what order and at what time the various stages or parts of the Services must be performed. If the Consultant can reasonably comply with the direction, it must do so. If the Consultant cannot reasonably comply, the Consultant must give CV notice of the reasons.

**2.2 Contract Material**

- (a) The Contract Material must be submitted by the Consultant to CV in the quantity and format and within the period reasonably specified by CV in the Program or in this Agreement. Where no period is specified, the Contract Material will be submitted to CV within a reasonable time before its issue by CV for use, giving due allowance for review by CV and any other person nominated by CV.
- (b) CV may, within a reasonable time, give the Consultant notice as to whether or not the Contract Material complies with the requirements of this Agreement. If CV notifies the Consultant that the Contract Material does not comply with the requirements of this Agreement, the Consultant must:
  - (i) amend the Contract Material so that it complies with the requirements of this Agreement; and
  - (ii) promptly submit such amended Contract Material to CV, in which case clause 2.2(a) and this clause 2.2(b) shall apply in relation to the amended Contract Material.
- (c) The review of or comment on any Contract Material by CV in accordance with this Agreement is solely to monitor the performance of the Consultant. The Consultant is fully responsible for performing the Services.
- (d) The Consultant must not make any material amendments to the Contract Material, unless the proposed amendments have been reviewed by CV in accordance with clause 2.2.
- (e) Where required by CV, the Consultant must carry out any required periodic inspection of the Project and provide (in a form approved by CV) full design and compliance certification:
  - (i) of all completed Contract Material in accordance with all standards, codes and Legislative Requirements; and
  - (ii) that the Project has been carried out and completed in accordance with the Contract Material.
- (f) Where there is any Error in the Contract Material, which arose due to the negligence of the Consultant or its Personnel, then the Consultant shall:
  - (i) rectify the Contract Material at no cost to CV;
  - (ii) have no entitlement to a Variation as a result of such Error; and
  - (iii) indemnify CV for any cost, loss, damage, expense or other liability of any nature, which is suffered or incurred by CV arising out of or as a consequence of the Error.

**2.3 Obligations Unaffected**

The Consultant will not be relieved from responsibility or liability for any defects, errors or omissions in the performance and products of the Services (including the Contract Material), despite any:

- (a) review or approval by CV;
- (b) subcontracting of the Services; or
- (c) any Variation.

Initial	
Initial	

**3 CV obligations**

CV will:

- (a) pay the Consultant in accordance with this Agreement;
- (b) provide the Consultant with Documents and other information in CV's control sufficient to enable the Consultant to perform the Services; and
- (c) provide the Consultant with such access to the Site as is reasonably necessary for the Consultant to perform the Services.

**4 Intellectual Property Rights**

- (a) The Consultant assigns to CV all Intellectual Property Rights in or relating to the Project Documents. This assignment operates as an assignment of future rights to the extent that any Project Document is not in existence at the date of the commencement of the Services.
- (b) The Consultant warrants that:
  - (i) any provision or use by the Consultant of the Project Documents will not infringe any Intellectual Property Right;
  - (ii) the Project Documents and CV's use of the Project Documents will not infringe any Intellectual Property Right; and
  - (iii) if CV's use of the Project Documents infringes or will infringe any person's Moral Rights, the Consultant will have obtained a consent from that person to that infringement prior to the infringement.
- (c) CV grants to the Consultant an irrevocable licence to use the Intellectual Property Rights in or relating to the Project Documents and the Project Documents for the Services.
- (d) On completion of the Services the Consultant must deliver up to CV (in any form requested by CV including PDF and CAD) all Project Documents and other Documents and material in the Consultant's possession or control relating to the Services or the Project.
- (e) The Consultant must do all things necessary to give effect to its obligations under this clause 4.

**5 Insurances**

- (a) The Consultant must, prior to commencing the Services, take out and maintain the following insurances, and provide CV with certificates of currency for those insurances:
  - (i) Public liability insurance naming the Consultant as insured and naming CV as a third party beneficiary (as that term is defined in the Insurance Contracts Act 1984 (Cth)), and covering the parties and all subcontractors for their respective rights, interests and liabilities against liability to third parties for at least the sum stated in Item 3 in respect of any one occurrence anywhere in Australia and unlimited in the aggregate, which must be maintained until the Consultant completes carrying out the Services;
  - (ii) workers compensation insurance as required by law, which must be maintained until the Consultant completes carrying out the Services; and
  - (iii) professional indemnity insurance cover for an amount in respect of any one claim of not less than the amount stated in Item 4(a) and a total aggregate cover for any year of not less than the sum

Initial	
Initial	

stated in Item 4(a), which must be maintained until the Consultant completes carrying out the Services and thereafter for the period stated in Item 4(b).

- (b) The Consultant shall ensure that every subcontractor shall effect and maintain a public liability policy with levels of cover not less than the sum stated in Item 3. Each subcontractor’s public liability policy shall be maintained until the Consultant completes carrying out the Services.
- (c) Prior to commencing the Services and whenever requested by CV, the Consultant shall provide satisfactory evidence of the insurance the Consultant is required to effect and maintain and of the insurance to be effected and maintained by subcontractor. Satisfactory evidence shall include such information as CV or its nominated representative deem reasonably necessary to prove that the Consultant has effected and maintained the insurance required by this Agreement.
- (d) If requested by CV, the Consultant shall allow CV (or CV’s nominated representative) to inspect the policy wording of any insurance policy proposed to be effected by the Consultant in accordance with this Agreement. The Consultant shall immediately after a request from CV provide CV or its nominated representative with copies of the policy wording of any insurance policy proposed to be effected by the Consultant in accordance with this Agreement.
- (e) Any insurance required:
  - (i) be effected in the names of CV and the Consultant in accordance with this Agreement; or
  - (ii) to name CV as a third party beneficiary (as that term is defined in the Insurance Contracts Act 1984 (Cth)),
 must include:
  - (iii) a cross liability clause in which the insurer accepts the term ‘insured’ as applying to each of the persons constituting the insured and any other person this Agreement requires the insurance to cover for its rights, interests and liabilities, as if a separate policy of insurance had been issued to each of them; and
  - (iv) a waiver of subrogation clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons constituting the insured (and any other person this Agreement requires the insurance to cover for its rights, interests and liabilities),
 subject always to the overall sum insured not being increased.
- (f) The Consultant shall bear the cost of any excess or deductible applicable to any claim made by the Consultant on an insurance policy which the Consultant is required to effect and maintain under this Agreement.
- (g) The Consultant shall pay CV an amount equal to any excess or deductible applicable to any claim made by CV on an insurance policy which the Consultant is required to effect and maintain under subclause 5(a)(i) where CV’s claim arises out of or as a consequence of the Consultant carrying out or failing to carry out the Services.

**6 Indemnity**

- (a) The Consultant indemnifies CV, against any cost, expense, loss, damage or other liability suffered or incurred by CV :

Initial	
Initial	

- (i) loss of or damage to CV including the Project Documents arising out of or as a consequence of the carrying out of or the failure to carry out the Services;
- (ii) personal injury, death, disease or illness (including mental illness) or loss of, or damage to, any other property or the environment arising out of or as a consequence of the performance of or a failure to perform the Services;
- (iii) a breach of this Agreement by the Consultant; and
- (iv) any wilful or negligent act or wilful or negligent omission of the Consultant or the Consultant's Personnel,

but the indemnity will be reduced proportionally to the extent that any breach of this Agreement by CV or any negligent act or negligent omission of CV or their contractors, consultants or agents (excluding the Consultant) contributed to the cost, expense, loss, damage or liability.

## 7 Payment

- (a) Subject to the provisions of this Agreement, CV will pay the Consultant the Fee. The Consultant will claim payment of the Fee progressively in accordance with Item 5(a) or Item 5(b), as applicable, provided that not more than one payment claim can be made under clause 7 following the date of completion of the Services. An early payment claim will be deemed to have been made on the date for making that claim. using CV's nominated partner platform, either via web-based interface or EDI integration.
- (b) The Fee includes all sums payable in connection with the performance of the Services and shall not be subject to any adjustment, including, but not limited to, adjustments to the cost of labour, unless such adjustment is in accordance with the terms of this Agreement including clause 9.
- (c) The payment claim must be given to CV and must:
  - (i) include:
    - (A) details of the amount claimed on account of the Fee, for the Services performed;
    - (B) details of any other amounts claimed to be due to the Consultant under this Agreement;
    - (C) the Purchase Order Number; and
  - (ii) include any other information reasonably requested by CV; and
  - (iii) satisfactory evidence that:
    - (A) the insurances which this Agreement requires the Consultant to effect are being maintained; and
    - (B) the Consultant has complied with subclause 19.
- (d) Subject to the provisions of this Agreement, CV will assess the payment claim and issue a payment schedule to the Consultant within the later of 10 days of CV's receipt of the payment claim and the receipt by CV from the Consultant of any further information requested by CV following CV's initial receipt of the payment claim, such information being required to assist CV in assessing the claim. The payment schedule must identify the payment claim to which the payment schedule relates, detail the amount CV reasonably considers is due to the Consultant or CV, as the case may be ('Scheduled Amount') and, if the Scheduled Amount is less than the claimed amount, the payment schedule must indicate why the Scheduled Amount is less and (if it is less because CV is withholding payment for any reason) the reasons for withholding payment. The Consultant must provide CV with a valid tax invoice for the

Initial	
Initial	

amount assessed within 2 Business Days of the receipt by the Consultant of CV's assessment. CV will pay the Consultant (or the Consultant will pay CV) the amount assessed as due within the time stated in Item 6.

- (e) Payment by CV will be on account only and will not be evidence of the value of the Services or evidence that the Consultant has executed the Services satisfactorily.
- (f) CV will bear, or reimburse to the Consultant, the expenses and disbursements (if any) stated in Item 7 and the Consultant will bear all other expenses and disbursements incurred by the Consultant in performing the Services.
- (g) CV may set off or deduct from moneys due to the Consultant any money due from the Consultant to CV whether under this Agreement or otherwise.
- (h) To the extent permitted by law, without limiting any other rights of CV under this Agreement or at law, CV may withhold payment to the Consultant:
  - (i) for the following reasons:
    - (A) failure to provide satisfactory evidence of compliance with clause 5;
    - (B) CV terminates this Agreement pursuant to clause 10.3(a), in which case CV may withhold payment until there is a determination of the parties' remedies, rights and liabilities in accordance with clause 10.5(a).

**8 Variations and extensions of time**

**8.1 Variations**

- (a) The Consultant will not vary the Services except as directed in writing by CV.
- (b) CV may direct the Consultant to undertake a Variation, but such Variation must be of a character and extent contemplated by, and capable of being carried out under, this Agreement.
- (c) The Consultant will be bound to comply with a direction under clause 9.1(b).
- (d) If relevant, the Fee and Program will be adjusted by CV to reflect its reasonable assessment of the increased or decreased cost and time for performance arising from the Variation.
- (e) If CV varies the Services by removing or omitting any part or all of the Services then CV may employ and pay others to perform the Services or the relevant part removed or omitted and CV or those persons may do anything necessary to perform the Services or the relevant part removed or omitted.
- (f) If a direction by CV (other than a Variation directed under clause 9.1(b)) in the opinion of the Consultant constitutes or involves a Variation, the Consultant must before commencing work on the subject matter of the direction give notice to CV that the Consultant considers the direction constitutes or involves a Variation (such notice may be given orally but shall be confirmed in writing by the Business Day following the date of such notice).
- (g) Within 5 Business Days of the Consultant giving the notice required by clause 9.1(f) (being the confirmatory written notice required by subclause 9.1(f) where the Consultant has given an oral notice), the Consultant may submit a Variation claim to CV.
- (h) Within 10 Business Days after receiving the Consultant's claim under clause 9.1(g), CV shall assess the claim and notify the Consultant of the assessment.

Initial	
Initial	

- (i) Notwithstanding any other provision of this Agreement, if the Consultant:
  - (i) commences work on the subject matter of a direction referred to in clause 9.1(f) before giving the notice to CV required by clause 9.1(f); or
  - (ii) fails to submit a claim to CV in accordance with clause 9.1(g),

the Consultant shall not be entitled to an adjustment to the Fee or any extension of time to perform the Services arising out of or in connection with a direction of CV referred to in clause 9.1(f).

**8.2 Extensions of time**

- (a) If the Consultant is or will be delayed in carrying out the Services the Consultant must within 7 days of the commencement of the cause of the delay notify CV, giving details.
- (b) If the Consultant’s delay is caused by an act, default or omission of CV provided that the Consultant has taken all reasonable steps to minimise the consequences of the delay, the time for performing the Services will be extended by the extent of the delay, to the extent that it is demonstrated that the delay affects or will affect the timing of performing the Services.
- (c) To the extent the delay arises solely as a result of a negligent act or negligent omission of CV, CV will pay to the Consultant the reasonable and justifiable direct costs the Consultant incurs by reason of the delay.
- (d) The Consultant will only be entitled to an extension of time if it complies with all requirements of this clause 9.2.

**9 Representatives**

- (a) CV may appoint a representative or representatives. The name of each of CV’s representative(s) will be notified to the Consultant.
- (b) If the Consultant appoints a representative, the Consultant must give CV prior notice of the representative’s name. If CV makes a reasonable objection to the appointment of a Consultant’s representative the Consultant must terminate the appointment and appoint another representative.

**10 Default or insolvency**

**10.1 Default**

If a party is in Material Default of this Agreement, the other party may give the defaulting party a notice to show cause.

**10.2 Notice to show cause**

A notice under clause 10.1 must state:

- (a) that it is a notice under clause 10;
- (b) the alleged Material Default;
- (c) that the defaulting party is required to show cause why the other party should not exercise a right referred to in clause 10.3 or clause 10.4, as applicable; and
- (d) the date and time by which the defaulting party must show cause (which must not be less than 5 Business Days after the notice is received by the defaulting party).

Initial	
Initial	



**10.3 CV's rights**

If the Consultant fails to show reasonable cause by the stated date and time, CV may by notice to the Consultant:

- (a) terminate this Agreement; or
- (b) take any other action available to it, including instituting proceedings for damages against the Consultant.

**10.4 Consultant's rights**

- (a) If CV fails to show reasonable cause by the stated date and time, the Consultant may, by notice to CV, suspend the whole or any part of the Services (and must remove the suspension if CV remedies the breach).
- (b) The Consultant may, by notice to CV, terminate this Agreement if within 20 Business Days of the date of suspension under this clause 10.4, CV fails:
  - (i) to remedy the default; or
  - (ii) if the default is not capable of remedy, to make other arrangements to the reasonable satisfaction of the Consultant.

**10.5 Termination**

- (a) If this Agreement is terminated under clause 10.3(a) or clause 10.4(b), the parties' remedies, rights and liabilities will be the same as they would have been under the law governing this Agreement had the defaulting party repudiated this Agreement and the other party elected to treat this Agreement as at an end and recover damages.
- (b) If this Agreement is terminated, whether under a clause of this Agreement or otherwise, there shall be only one date for claiming payment for the purposes of the Security of Payment Act after the date of termination, which shall be the date specified in Item 5(c).
- (c) On any termination of this Agreement the Consultant must deliver up to CV (in any form requested by CV including PDF and CAD) all Project Documents and other Documents and material in the Consultant's possession or control relating to the Services or the Project.

**10.6 Early termination**

- (a) To the extent permitted by law, CV may in its absolute and sole discretion terminate this Agreement at any time by giving the Consultant not less than 5 Business Days' notice. For the avoidance of doubt CV is not required or obliged to act in good faith in exercising this right.
- (b) If this Agreement is terminated under clause 10.6(a):
  - (i) CV will pay the Consultant for the Services performed up to and including the date of termination; and
  - (ii) CV will not be liable to the Consultant for and the Consultant will not be entitled to claim from CV any losses (including consequential losses, indirect losses, loss of profit or economic losses), expenses, costs, damages or liabilities suffered or incurred by the Consultant under this Agreement or otherwise arising out of or as a consequence of the termination, other than the amounts to be paid by CV under clause 10.6(b)(i).

Initial	
Initial	

- (c) If CV terminates this Agreement under subclause 10.6(a) then CV may employ and pay others to perform the Services and CV or those persons may do anything necessary to perform the Services.
- (d) On termination of this Agreement under this clause 10.6 the Consultant must deliver up to CV (in any form requested by CV including PDF and CAD) all Project Documents and other Documents and material in the Consultant's possession or control relating to the Services or the Project.

**10.7 Insolvency**

- (a) If an Enforceable Insolvency Event occurs in respect of a party then, where the other party is:
  - (i) CV, CV may, without giving a notice to show cause, exercise the rights under clause 10.3; or
  - (ii) the Consultant, the Consultant may, without giving a notice to show cause, exercise the right under clause 10.4.
- (b) Without limiting subclause 10.7(a), if a Contingent Insolvency Event occurs in respect of the Consultant and a Contingent Insolvency Event Authorisation has been obtained to enforce the relevant right under subclause 10.3, CV may, without giving a notice to show cause, exercise any right under subclause 10.3.
- (c) The rights and remedies given by this clause 10.7 are additional to any other rights and remedies. They may be exercised even if there has been no breach of this Agreement.
- (d) The Consultant indemnifies CV against any cost, expense, loss, damage or other liability that CV suffers or incurs, or that CV reasonably anticipates that it will suffer or incur, as a result of CV terminating this Agreement under subclause 10.3(a).

**11 GST**

**11.1 Definitions**

Words and phrases used in this Agreement that are defined in the GST Legislation have the meaning given in that legislation where used in this Agreement.

**11.2 Consideration is GST-exclusive**

Unless otherwise specified, all amounts payable under this Agreement are exclusive of GST and must be calculated without regard to GST.

**11.3 GST payable on taxable supply**

- (a) If a supply made under this Agreement is a taxable supply, the recipient of that taxable supply (**Recipient**) must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (b) The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this Agreement then the Supplier must provide an adjustment note to the Recipient.
- (d) The amount of a party's entitlement under this Agreement to recovery or compensation for any of its costs, expenses, losses, damages or other liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses, losses, damages or liabilities.

Initial	
Initial	

**11.4 Survival of clause**

This clause 11 will survive the termination of this Agreement.



**12 Dispute Resolution**

- (a) Where either party has a dispute arising out of this Agreement it may give written notice to the other party stating the matter in dispute.
- (b) Within 5 Business Days of receipt of the notice, the parties’ senior representatives (who have authority to settle the dispute) are to meet and seek to resolve the dispute.
- (c) If the dispute remains unresolved within 10 Business Days after the meeting required by clause 13(b), either party may refer the dispute to an independent expert appointed by the Resolution Institute for expert determination according to the Expert Determination Rules of the Resolution Institute.
- (d) Each party will pay its own costs in relation to the expert determination. The expert’s costs (including the cost of any advisers or consultants engaged by the expert) will be paid by the parties as determined by the expert.
- (e) The determination of the expert will be final and binding on the parties except:
  - (i) in the case of fraud or manifest error; or
  - (ii) where the amount claimed by a party or determined by the expert is more than \$50,000 provided that a party commences court proceedings within 60 Business Days of the expert’s decision.
- (f) If a party commences court proceedings within 60 Business Days of the expert’s determination, the expert’s determination will be final and binding upon the parties until:
  - (i) the court proceedings are dismissed or discontinued; or
  - (ii) judgment is entered in the court proceedings.
- (g) If a party commences court proceedings within 60 Business Days of the expert’s determination and the court proceedings are dismissed or discontinued, the expert’s determination will be final and binding upon the parties after the discontinuance.
- (h) Subject to clause 13(i) and clause 13(j) and without limiting clauses 13(e) to 13(g), it is a condition precedent to a party being entitled to commence court proceedings that the procedures referred to in clauses 13(a) to 13(g) first be complied with.
- (i) Nothing in this clause 13 shall prejudice the right of a party to institute proceedings to enforce payment due under this Agreement or to seek injunctive or urgent declaratory relief.
- (j) Notwithstanding the existence of a dispute, the Consultant shall continue to perform this Agreement unless otherwise directed by CV.
- (k) This clause 13 will survive the expiration, termination or frustration of this Agreement.

**13 No responsibility**

Without limiting clause 14:

- (a) CV does not warrant, guarantee or make any representation about the accuracy or adequacy of any information, data and Documents made available to the Consultant by CV or anyone on behalf of CV before the date of commencement of the Services and which does not form part of this Agreement; and

Initial	
Initial	

- (b) to the extent permitted by law, CV will not be liable upon any claim by the Consultant arising out of, or in any way in connection with, that information, data and Documents.

**14 Non-Reliance**

The Consultant:

- (a) warrants that it did not in any way rely upon:
  - (i) any information, data, representation, statement or Document (not forming part of this Agreement) made available to the Consultant by CV or anyone on behalf of CV; or
  - (ii) the accuracy or adequacy of any such information, data, representation, statement or Document, for the purposes of entering into this Agreement; and
- (b) warrants that it enters into this Agreement based on its own investigations, interpretations, deductions, information and determinations.

**15 Work health and safety**

- (a) The Consultant must comply with all Legislative Requirements for WHS, including all WHS Laws, codes of practice and Australian Standards that are applicable to the performance of the Services.
- (b) If the Consultant, for the purposes of clause 295 of the WHS Regulation, is the designer of a structure or any part of a structure that is to be constructed, the Consultant shall provide CV, within such time as required by CV, with the report required by clause 295 of the WHS Regulation.
- (c) If the Consultant, for the purposes of clause 295 of the WHS Regulation, has commissioned the design of a structure or any part of a structure that is to be constructed, the Consultant shall provide CV with a copy of the report required by clause 295 of the WHS Regulation within 5 Business Days of receipt of the report.
- (d) Any review or inspection by CV of any WHS information provided by the Consultant under this Agreement will not constitute the verification or acceptance by CV of the adequacy of the information, which remains the sole responsibility of the Consultant.

**16 Confidential Information**

- (a) Subject to subclause 16(b), the Consultant must, and ensure its Personnel must:
  - (i) maintain in confidence all Confidential Information; and
  - (ii) ensure that all Confidential Information is kept confidential.
- (b) The Consultant may only reveal Confidential Information:
  - (i) if required by law or by any stock exchange to disclose, in which case the Consultant shall immediately notify CV of the requirement and shall take lawful steps and permit CV to oppose or restrict the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
  - (ii) if the Confidential Information is in or enters the public domain for reasons other than a breach of this Agreement;
  - (iii) if the Confidential Information is disclosed to the Consultant by a third party legally entitled to disclose that information and who is not under an obligation of confidentiality to CV; or

Initial	
Initial	

- (iv) to its professional advisers to obtain professional advice.
- (c) This clause 19 will survive the expiration, termination or frustration of this Agreement.

**17 General Provisions**

**17.1 Assignment, subcontracting and novation**

- (a) The Consultant must not assign, subcontract or otherwise deal with the whole or any part of this Agreement without the prior consent of CV (which may be given or withheld, including on terms, at CV’s absolute and sole discretion). Subcontracting will not relieve the Consultant from liability or any obligation under this Agreement.
- (b) CV may at any time transfer, assign, novate or otherwise deal with the whole or any part of this Agreement.
- (c) The Consultant hereby irrevocably consents to any novation of this Agreement directed by CV (without being entitled to compensation) and must enter into a deed of novation with CV and a third party in the form set out in Schedule 2 (or such other form as CV may require to give effect to the novation). If the Consultant fails to enter into the deed within 5 days of the direction by CV, the Consultant irrevocably appoints CV as the attorney of the Consultant to execute the deed of novation on behalf of the Consultant.

**17.2 Entire agreement**

This Agreement constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

**17.3 Severance**

If any provision of this Agreement or any part of a provision of this Agreement is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of this Agreement and the remaining clauses (or parts of those clauses) which will continue in full force and effect.

**17.4 Counterparts**

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

**17.5 Governing law and jurisdiction**

The laws applicable in Queensland govern this Agreement. The parties submit to the non-exclusive jurisdiction of the courts of Queensland and any courts competent to hear appeals from those courts.

**17.6 Work prior to date of Agreement**

- (a) Any act or omission of:
  - (i) CV or its consultants or agents;
  - (ii) any other consultant of CV; or
  - (iii) the Consultant, or its Personnel,

Initial	
Initial	

prior to the date of this Agreement that relates to this Agreement is deemed to have been performed or not performed, as applicable, under or in relation to, as applicable, this Agreement.

- (b) The rights and obligations of the parties under this Agreement apply from the date of this Agreement and the date of commencement of the Services or, if they are different dates, whichever is earlier.

**17.7 Amounts due**

Where no time is stated in this Agreement for payment of an amount due from the Consultant to CV, that amount is payable on demand being made by CV.

**17.8 Notices**

- (a) A notice, demand, consent, approval, request or other communication (**Notice**) to be given under this Agreement must be in writing and must be given to the recipient at its address as set out in the Details (or an address otherwise notified in writing to the other party) by being:
  - (i) hand delivered;
  - (ii) sent by prepaid ordinary mail within Australia; or
  - (iii) sent by email transmission except for any notice under clause 11 or clause 13.
- (b) The date of receipt of a Notice is
  - (i) if hand delivered, on the date of delivery but if delivery occurs after 5:00pm Queensland time or on a day which is not a Business Day, it is taken to be received on the next Business Day;
  - (ii) if sent by prepaid ordinary mail within Australia, on the date that is 3 Business Days after the date of posting; or
  - (iii) subject to clause 17.8(a)(iii), if sent by email transmission, on the date that the email is sent except that:
    - (A) subject to clause 17.8(b)(iii)(B), if the email is sent after 5.00pm Queensland time or on a day which is not a Business Day, it is taken to be received on the next Business Day; and
    - (B) if the sending party's electronic equipment records that the email has not been successfully delivered the notice is taken not to be received.

**18 Privacy**

- (a) The Consultant:
  - (i) acknowledges that it and CV are required to comply with the Privacy Act in relation to the collection, use, storage and disclosure of Personal Information;
  - (ii) must not do any act or engage in any practice that would breach the Privacy Act, or which if done or engaged in by CV, would breach the Privacy Act;
  - (iii) must comply with, perform and discharge to the maximum extent possible, the obligations contained in the Privacy Act;
  - (iv) must ensure that neither it nor any of its Personnel use, access, retain or disclose any Personal Information obtained either directly or indirectly as a consequence of this Agreement, other than for the purpose of complying with this Agreement;

Initial	
Initial	

- (v) must only use, access, retain and disclose any Personal Information obtained either directly or indirectly as a consequence of this Agreement for the purpose of complying with this Agreement;
  - (vi) must notify CV immediately upon becoming aware of a breach or possible breach of any of the obligations contained or referred to in this clause by the Consultant or any of its Personnel;
  - (vii) must comply with all reasonable directions of CV in relation to the care and protection of all information held in connection with this Agreement (including, if directed by CV, for the Consultant to comply with CV's privacy policy in relation to such information or the Consultant's compliance with this clause 24) and take all reasonable measures to ensure that such information is protected against misuse, loss, unauthorised access, modification or disclosure; and
  - (viii) must immediately notify CV if the Consultant becomes aware of, or receives, any access request or complaint relating to privacy, including in relation to any Personal Information obtained either directly or indirectly as a consequence of this Agreement.
- (b) The Consultant acknowledges:
- (i) CV may suffer loss if the Consultant is in breach of its obligations under this clause;
  - (ii) monetary damages may be insufficient in such circumstances; and
  - (iii) in addition to any other remedy available at law, CV is entitled to injunctive relief to prevent a breach, or to compel specific performance of any obligations in this clause 24.
- (c) This clause will survive the termination or expiry of this Agreement for a period of 7 years.

Initial	
Initial	

**Annexure 1**  
**Fee and Expenses**



Initial	
Initial	



**Annexure 2**  
**Contract Documents**



Initial	
Initial	

**Annexure 3**  
**Brief**

Initial	
Initial	

**Annexure 4  
Program**



Initial	
Initial	

**Schedule 2**

**Deed of Novation**

Dated 20[#]

**[# - Client]**

Client

**[# - Consultant]**

Consultant

**[# - Contractor]**

Contractor

**Deed of Novation**

Novation of Consultant to Contractor

THIS DEED OF NOVATION is dated 20[#]



**PARTIES:**

- [# - CLIENT] ACN [# - ACN] of [# - Address] (**Client**)
- [# - CONSULTANT] ACN [# - ACN] of [# - Address] (**Consultant**)
- [# - CONTRACTOR] ACN [# - ACN] of [# - Address] (**Contractor**)

**INTRODUCTION:**

- A** Under the Contract the Client has engaged the Contractor to design and construct the Works.
- B** Under the Prior Agreement the Client has engaged the Consultant to undertake the Consultant’s Services.
- C** The parties agree that, with effect from the Novation Date, the Prior Agreement will be novated from the Client to the Contractor on the terms set out in this deed.
- D** The parties agree that the New Agreement may subsequently be novated from the Contractor to the Client with effect from a Further Novation Date on the terms set out in this deed.

**IT IS AGREED:**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this deed, unless the context clearly indicates otherwise:

**Address for Service** means the address of a party appearing in clause 6.3(c) of this deed or any new address notified by a party to the other parties as its new address for service;

**Business Day** means any day that is not a Saturday, Sunday or public holiday in Queensland;

**Consultant’s Services** means [# - insert description];

**Contract** means the contract entered into by the Client and the Contractor for the design and construction of the Works dated [# - insert date] and includes any amendment of that contract;

**Corporations Act** means the *Corporations Act 2001 (Cth)*;

**Further Agreement** has the meaning in clause 3.2(a);

**Further Novation Date** means the date of any notice under clause 3.1;

**GST Law** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**New Agreement** has the meaning in clause 2.1(a);

**Notice** has the meaning in clause 6.3(a);

**Novation Date** means [# - insert date];

**Prior Agreement** means the contract entered into by the Client and the Consultant for the Consultant’s Services dated [# - insert date] and includes any amendment of that contract;

**Recipient** has the meaning in clause 5.3(a);

**Supplier** has the meaning in clause 5.3(a); and

**Works** means [# - insert description].

**1.2 Interpretation**

In this deed, unless the context clearly indicates otherwise:

- (a) clause headings are inserted for convenience only and do not form part of this deed;

Initial	
Initial	

- (b) the introduction forms part of this deed;
- (c) a reference to legislation or a legislative provision includes:
  - (i) any modification or substitution of that legislation or legislative provision; and
  - (ii) any subordinate legislation issued under that legislation or legislative provision including under that legislation or legislative provision as modified or substituted;
- (d) a reference to a person includes that person’s successors and permitted assignees and novatees;
- (e) an obligation or warranty on the part of two or more persons binds them jointly and severally and an obligation or warranty in favour of two or more persons benefits them jointly and severally;
- (f) including and includes are not words of limitation;
- (g) a word that is derived from a defined word has a corresponding meaning;
- (h) monetary amounts are expressed in Australian dollars;
- (i) the singular includes the plural and vice-versa;
- (j) words importing one gender include all other genders; and
- (k) a reference to a thing includes each part of that thing.

**1.3 Construction**

Neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

**2 NOVATION**

**2.1 Novation**

The parties agree that on and from the Novation Date:

- (a) subject to clause 2.1(b), the Contractor is a party to the Prior Agreement instead of the Client and all references in the Prior Agreement to the Client are to be read as references to the Contractor (**New Agreement**);
- (b) with respect to the obligations of the Client under the Prior Agreement immediately prior to the Novation Date, the Contractor will under the New Agreement perform those obligations to the extent not performed as at the Novation Date; and
- (c) with respect to the obligations of the Consultant under the Prior Agreement immediately prior to the Novation Date, the Consultant will under the New Agreement perform those obligations to the extent not performed as at the Novation Date.

**2.2 Payment**

The Client and the Consultant agree that no amount is due by the Client to the Consultant under the Prior Agreement.

**2.3 Warranty**

As at the Novation Date, the Consultant warrants to the Contractor that the Consultant has performed its obligations under the Prior Agreement.

**3 FURTHER NOVATION**

**3.1 Notice**

The parties agree that upon:

Initial	
Initial	

- (a) termination of the Contract by the Client or the Contractor; or
- (b) the Client taking work out of the Contractor’s hands under the Contract, the Client may give notice to the Contractor and the Consultant stating that on and from the date of the notice the New Agreement is novated from the Contractor to the Client.

**3.2 Novation**

The parties agree that on and from any Further Novation Date:

- (a) subject to clause 3.2(b), the Client is a party to the New Agreement instead of the Contractor and all references in the New Agreement to the Contractor are to be read as references to the Client (Further Agreement);
- (b) with respect to the obligations of the Contractor under the New Agreement immediately prior to the Further Novation Date, the Client will under the Further Agreement perform those obligations to the extent not performed as at the Further Novation Date; and
- (c) with respect to the obligations of the Consultant under the New Agreement immediately prior to the Further Novation Date, the Consultant will under the Further Agreement perform those obligations to the extent not performed as at the Further Novation Date.

**3.3 Warranty**

As at any Further Novation Date:

- (a) the Consultant warrants to the Client that it has performed its obligations under the New Agreement; and
- (b) the Contractor warrants to the Client that:
  - (i) it has performed its obligations under the New Agreement; and
  - (ii) no amount is due by the Contractor to the Consultant under the New Agreement.

**4 ASSIGNMENT, TRANSFER AND AMENDMENT**

**4.1 Assignment by Client**

The Client may assign any or all of its rights under this deed without the consent of the other parties.

**4.2 Transfer by Contractor and Consultant**

- (a) The Contractor and the Consultant must not assign any or all of their rights under this deed without the prior consent of the Client.
- (b) On and from the Novation Date until any Further Novation Date, the Contractor and the Consultant must not transfer any right or obligation under the New Agreement without the prior consent of the Client.

**4.3 Amendment of New Agreement**

On and from the Novation Date until any Further Novation Date, the Contractor and the Consultant must not amend the New Agreement without the prior consent of the Client.

**5 GST**

**5.1 Definitions**

Words used in this deed that are defined in the GST Law have the meaning given in that legislation where used in this deed.

**5.2 Consideration is GST-exclusive**

Initial	
Initial	

Unless otherwise specified, all amounts payable under this deed are exclusive of GST and must be calculated without regard to GST.

### 5.3 GST payable on taxable supply

- (a) If a supply made under this deed is a taxable supply, the recipient of that taxable supply (Recipient) must, in addition to any other consideration, pay to the party making the taxable supply (Supplier) the amount of GST in respect of the supply.
- (b) The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this deed then the Supplier must provide an adjustment note to the Recipient.
- (d) The amount of a party's entitlement under this deed to recovery or compensation for any of its costs, expenses, losses, damages or other liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses, losses, damages or liabilities.

## 6 GENERAL

### 6.1 Governing law and jurisdiction

- (a) The laws applicable in Queensland govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Queensland and any courts competent to hear appeals from those courts.

### 6.2 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

### 6.3 Notices

- (a) Any notice, demand, consent, approval, request or other communication (Notice) to be received under this deed must be in writing and must be given to the recipient at its Address for Service by being:
  - (i) hand delivered; or
  - (ii) sent by prepaid ordinary mail within Australia.
- (b) The date of receipt of a Notice is:
  - (i) if hand delivered, on the date of delivery but, if delivery occurs after 5:00pm Queensland time or on a day which is not a *Business Day*, it is taken to be received on the next *Business Day*;
  - (ii) if sent by prepaid ordinary mail within Australia, on the date that is 3 *Business Days* after the date of posting.
- (c) The addresses of the parties are:
  - (i) for the Client: [# - insert];
  - (ii) for the Consultant: [# - insert]; and
  - (iii) for the Contractor: [# - insert]
- (d) This clause 6.3 will survive the expiration, termination or frustration of this deed.



**EXECUTED** as a deed.



**EXECUTED** by [# - CLIENT] in accordance with )  
section 127 of the Corporations Act by: )  
)

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary

**EXECUTED** by [# - CONSULTANT] in accordance )  
with section 127 of the Corporations Act by: )  
)

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary

**EXECUTED** by [# - CONTRACTOR] in accordance )  
with section 127 of the Corporations Act by: )  
)

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary

Initial	
Initial	